

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

IN THE MATTER OF AN APPLICATION UNDER SECTION 207 OF THE *BUSINESS CORPORATIONS ACT*, RSO 1990, C. B.16, AS AMENDED;

AND IN THE MATTER OF RULE 14.05(2) OF THE *RULES OF CIVIL PROCEDURE*, RR0 1990, REG. 194, AS AMENDED;

AND IN THE MATTER OF THE LIQUIDATION AND DISSOLUTION OF AREHADA MINING LIMITED

**FIRST REPORT OF ALBERT GELMAN INC.
in its capacity as court-appointed liquidator of Arehada Mining Limited**

(Dated September 15, 2023)

I. INTRODUCTION

1. This first report (“**First Report**”) is filed by Albert Gelman Inc. (“**AGI**”) in its capacity as liquidator (in such capacity, the “**Liquidator**”) appointed, without security, over all of the assets, undertakings and properties (together, the “**Property**”) of Arehada Mining Limited (the “**Company**”) by Order of the Ontario Superior Court of Justice, Commercial List (the “**Court**”), dated February 10, 2023 (the “**Appointment Order**”), made pursuant to the *Business Corporations Act*, R.S.O. 1990, c. B.16. A copy of the Appointment Order is attached hereto as **Appendix “A”**.

2. On February 10, 2023 the Court also issued an Order approving the Liquidator to undertake a claims solicitation process (the “**Claims Solicitation Procedure and Bar Order**”). A copy of the Claims Solicitation Procedure and Bar Order is attached hereto as **Appendix “B”**. Further details regarding the Claims Solicitation Process (defined below) are set out later in this First Report.

II. PURPOSE OF THIS REPORT

3. The purpose of this First Report is to:

- a. provide both the Court and stakeholders with an update with respect to the Liquidator’s actions and activities since the date of the Appointment Order;

- b. provide background for and support the Liquidator's motion to the Court returnable on September 21, 2023 (the "**September 21 Motion**"), seeking an Order:
- i. approving this First Report as well as the actions and activities of the Liquidator and its legal counsel described herein;
 - ii. approving the Liquidator's final statement of receipts and disbursements as of September 12, 2023 (the "**Final SRD**"), including the estimated fee accruals to complete its mandate as set out on the Final SRD (defined below as the Estimated Final Accruals);
 - iii. authorizing the Liquidator to assign the Company into bankruptcy;
 - iv. approving the fees and disbursements of the Liquidator incurred up to August 31, 2023;
 - v. approving the fees and disbursements of the Liquidator's independent counsel, WeirFoulds LLP ("**WeirFoulds**"), incurred up to August 29, 2023;
 - vi. approving the fees and disbursements of counsel to the Company, Hong Wilkin Business Law Professional Corporation ("**Hong Wilkin PC**"), incurred up to July 17, 2023; and,
 - vii. discharging AGI as Liquidator and releasing AGI from all liability upon the filing with the Court of the certificate (the "**Discharge Certificate**") included as Schedule "B" to the draft form of Order which is included with the Liquidator's September 21 Motion materials, which certificate shall be filed subsequent to the Liquidator completing the Remaining Activities (defined below) as set out below.

III. SCOPE AND TERMS OF REFERENCE

4. In preparing this First Report, the Liquidator has obtained and relied upon certain unaudited financial information of the Company and the Company's books and records, and had ongoing discussions with Graham Warren, current Director of the Company, Judith Hong Wilkin of Hong Wilkin PC, counsel for the Company, and the Company's external accountant, McGovern Hurley LLP.

5. While the Liquidator has reviewed the various documents provided, such review does not constitute an audit or verification of such information for accuracy, completeness or compliance with Generally Accepted Accounting Principles ("**GAAP**") or International Financial Reporting Standards ("**IFRS**"). Accordingly, the Liquidator expresses no opinion or other form of assurance pursuant to GAAP or IFRS or otherwise with respect to such information except as expressly stated herein.

6. This First Report has been prepared for the purposes described above. Accordingly, the reader is cautioned that this First Report may not be appropriate for any other purpose.

7. Unless otherwise noted, all monetary amounts referenced herein are expressed in Canadian dollars.

IV. BACKGROUND INFORMATION

8. As set out in the Warran Affidavit (defined below), the Company is a public company duly incorporated pursuant to the laws of the Province of Ontario. It was a development-stage mining enterprise engaged in the exploration development, extraction and refining of zinc-silver metals in the Inner Mongolian Autonomous Region of China.

9. The Company's majority shareholder is Arehada (Barbados) Holding Corporation ("**HoldCo**"), a company domiciled in the jurisdiction of Barbados, holding approximately 78% of the outstanding common shares of the Company. The remaining portion of the Company's common shares are principally owned by various Canadian investors. As of the date of the Appointment Order, there were approximately 487 shareholders of the Company other than HoldCo (the "**Minority Shareholders**"), holding an aggregate of 22% of the outstanding common shares with no Minority Shareholder beneficially holding more than 10% of the outstanding common shares.

10. The Company ceased operating in or around November 2010.

11. On April 6, 2011, the Ontario Securities Commission (the "**OSC**") issued a temporary cease trade ("**CTO**") and on April 8, 2011 the Toronto Stock Exchange notified the Company that its shares would be delisted as of the close of market on May 9, 2011. CTOs were also issued by the British Columbia Securities Commission and the Alberta Securities Commission. As of the date of the Appointment Order all of the CTOs, including the one issued by the OSC, continued in effect and the Company's shares are not listed on any stock exchange.

12. Further background information relating to the Company and the events leading to the appointment of the Liquidator is set out in the affidavit of Graham C. Warren sworn January 31, 2023 (the "**Warren Affidavit**") filed in support of the application for the Appointment Order, of which a copy without exhibits is attached hereto as **Appendix "C"**.

13. The information contained in this 'background information' section was derived from the Warren Affidavit.

V. ACTIONS AND ACTIVITIES OF THE LIQUIDATOR

14. Since the Appointment Date the Liquidator undertook, among other things, the following actions and activities:

- a. Undertook the Claims Solicitation Process (defined below) which is described in more detail below;
- b. deposited the funds held in the Company's bank account in the total amount of \$302,465.52 (the "**Cash in Bank**") into the Liquidator's estate trust bank account. The Cash in Bank is the only remaining realizable asset of value of the Company;

- c. Contacted the Company's external accountant, Kyle Bergstrom of McGovern Hurley LLP ("**McGovern Hurley**"), to obtain details regarding the status of the Company's tax filing and engaged McGovern Hurley to prepare and file any/all unfiled tax returns. McGovern Hurley advised the Liquidator that no tax filings beyond the fiscal year ended December 31, 2017 were filed;
- d. Obtained copies of the available books and records of the Company;
- e. In accordance with subsection 210(4) of the *Business Corporations Act* (Ontario) (the "**Act**"), gave notice to the Director (as defined in the Act) of its appointment as Liquidator of the Company;
- f. Communicated with representatives of TSX Trust Company ("**TSX**") regarding the unclaimed dividends issued by the Company which are currently being held by TSX in the amount of \$17,559.60 (the "**Unclaimed Dividends**"). The Liquidator was advised by TSX that it would not release the Unclaimed Dividends to the Liquidator unless the Liquidator agreed to indemnify TSX. Given the relatively small quantum of the Unclaimed Dividends and the potential liability which could arise as against the Liquidator, the Liquidator did not agree to indemnify TSX and the Unclaimed Dividends continue to be held by TSX;
- g. As of the date of the Appointment Order there was an outstanding receivable in the amount of approximately \$7.4 million (the "**Outstanding Receivable**") owing from HoldCo to the Company, which the former CEO of the Company, Steve Fan Wang (a principal of Holdco) had represented he would collect and deliver to the Company. As will be described below, the Liquidator engaged in an assessment of the collectability of the Outstanding Receivable with management and determined that it is not collectible. As a result, the Liquidator will not be taking any further steps to collect the Outstanding Receivable; and,
- h. Communicated with representatives of the Company's legal counsel, Hong Wilkin PC, Graham Warren, a director of the Company, and other stakeholders regarding these Liquidation proceedings.

VI. CLAIMS SOLICITATION PROCESS

15. In accordance with the Claims Solicitation Procedure and Bar Order the Liquidator was empowered and authorized to undertake a process to identify, resolve and bar any and all claims against the Company (the "**Claims Solicitation Process**").

16. The Claims Solicitation Process required that all claims were to be provided to the Liquidator prior to 5:00 p.m. (Eastern Standard Time) on May 18, 2023 (the "**Claims Bar Date**") and that if a creditor did not file a claim by the Claims Bar Date it would be forever barred from doing so and its claim against the Company would be extinguished.

17. In respect of the Claims Solicitation Process approved by the Court the Liquidator undertook the following activities:

- a. Published a notice in both the National Post and the Toronto Star on February 21, 2023 and March 1, 2023, respectively, describing the Claims Solicitation Process and advising all creditors of the Company of the Claims Bar Date. Attached hereto as **Appendix “D”** are copies of the notices.
- b. Sent via electronic mail or facsimile to all known creditors of the Company (as either identified by the Liquidator during these proceeding or as contained in the Company’s books and records), a proof of claim form to be sworn by the creditor under oath as well as instructions regarding the proper completion of the proof of claim form (together the **“Proof of Claim Document Package”**). A Proof of Claim Document Package was also sent to the Canada Revenue Agency; and,
- c. Posted the Proof of Claim Document Package on the Liquidator’s website.

18. In undertaking the Claims Solicitation Process the Liquidator received the following claims prior to the Claims Bar Date:

- a. Graham Warren sworn on May 4, 2023 in the amount of \$480,254.97;
- b. Samuel Baker sworn May 12, 2023 in the amount of \$134,605.10;
- c. Zhengquan Chen (aka Philip Z. Chen) sworn May 1, 2023 in the amount of \$212,711.10; and,
- d. TSX Trust Company sworn April 12, 2023 in the amount of \$267.81.

(collectively, the **“Received Claims”**)

19. The Received Claims total \$827,838.98 in aggregate. Attached hereto as **Appendix “E”** are copies of the Received Claims.

20. There were no claims received by the Liquidator subsequent to the Claims Bar Date.

21. The Liquidator accepted the Received Claims. There were no claims received by the Liquidator which were disputed. However, given that the only remaining realizable asset of the Company is the Cash in Bank there are insufficient funds available to satisfy the amounts set out in the Received Claims. As a result, and based on the determination regarding the Outstanding Receivable (described below), the Liquidator has determined that the Company is insolvent.

VII. OUTSTANDING RECEIVABLE

22. As described in the Warren Affidavit, the Outstanding Receivable was to be collected by the former CEO, Steve Wang, who together with his brother, Tom Wang, were the sole shareholders of Baiyinhanshan Holding Corporation (**“BHC”**), a Barbados corporation holding 95% of the shares of HoldCo.

23. The Liquidator has been advised by management and counsel to the Company of the following:
- a. The Company relied on Steve Wang with respect to its affairs in China, including in respect of the various transactions described in the Warren Affidavit leading to the Outstanding Receivable. However, Management advised the Liquidator that it stopped receiving that between June and October 2018 communications from Mr. Wang. Management continued its efforts and for a limited time, the Company's Secretary, Betty Sige Wang (also a resident of China) (the "**Secretary**"), indicated that she was in communications with Mr. Wang. The Secretary advised that Mr. Wang had been summoned to attend an interview with the Supervisory Commission of Inner Mongolia Autonomous Region of China. Management was unable to obtain any additional information as to this interview or Mr. Wang's whereabouts.
 - b. Since that time, the Secretary became more and more unresponsive, no longer answering telephone calls and sporadically responding to text messages through WeChat. Apart from an unexpected phone call from Mr. Wang in May 2019, in which he did not address the concerns of Management, the Company has been unable to communicate or locate Mr. Wang. Through the last few messages with the Secretary, Management was led to believe that Mr. Wang may be subject to certain restrictions in China.
 - c. In February 2020, Management consulted with legal counsel in Hangzhou, China (the "**PRC Lawyers**") in an effort to determine the feasibility of collecting the Outstanding Receivable. Information received by Management from the PRC Lawyers revealed that the company, Yunnan Xuming Tiancheng Tourism Development Co. Ltd. ("**Tiancheng**"), in which the Company's funds (through its subsidiary) were invested (by Mr. Wang), had already been dissolved on October 8, 2018. Neither the Company nor its subsidiary were listed as shareholders of Tiancheng, and rather, BHC was listed as holding RMB 229 million in share capital.
 - d. Management was not aware of the dissolution of Tiancheng and suspects that Mr. Wang has misappropriated the funds. The PRC Lawyers advised Management that the prospects of pursuing Mr. Wang were difficult due to various irregularities later discovered such as, the acquisition by the Company of the subsidiary's shares not having been properly registered in Barbados, management of the subsidiary continuing with Mr. Wang, his brother and another Chinese national, and no knowledge of how to contact or locate other shareholders to effect a change of management.
24. The Liquidator and its counsel have reviewed the information provided by Management and the Company's corporate counsel, including certain minutes of the meetings of the Board of Directors of the Company where PRC Lawyers were in attendance to discuss the prospects of pursuing claims in Barbados and/or China. The Liquidator notes that the Company attempted to locate Mr. Wang by retaining the services of an investigator to make inquiries in China without success. As a result, given the limited resources of the

Company, its cessation of any business activities since November 2010, and the multi-jurisdictional nature of the litigation that would be required, Management decided not to pursue the Outstanding Receivable.

25. The Liquidator believes that the steps taken, and efforts made, by Management to review and assess the feasibility of collecting the Outstanding Receivable appear reasonable. Based on its review and its consultation with legal counsel, the Liquidator sees no reason to disagree with Management's assessment and decision not to pursue the Outstanding Receivable. Management's business judgment should be afforded reasonable deference and the Liquidator is satisfied that Management exercised reasonable diligence in assessing the feasibility of collecting the Outstanding Receivable.

VIII. BANKRUPTCY ASSIGNMENT

26. As set out above, given that the Outstanding Receivable is of no material value, the Company is insolvent. The Appointment Order does not specifically authorize the Liquidator to assign the Company into bankruptcy. Accordingly, the Liquidator respectfully requests that this Honourable Court grant an Order authorizing the Liquidator to assign the Company into bankruptcy and for AGI to act as Trustee of the bankrupt estate so that the insolvent Company can be administered in accordance with the provisions of the *Bankruptcy and Insolvency Act (Canada)*.

27. The Appointment Order provides that nothing in the Appointment Order shall prevent the Liquidator from acting as a trustee in bankruptcy of the Company. There will be efficiencies to appoint AGI as bankruptcy trustee in the circumstances. AGI is a Licensed Insolvency Trustee.

IX. FINAL ACTIVITIES OF THE LIQUIDATOR

28. In order to complete its mandate, the Liquidator intends to, *inter alia*, do the following:

- a. on behalf of the Company, make a voluntary assignment in bankruptcy and enter into any required engagement agreement with AGI;
- b. pay the final fees of the Liquidator, counsel to the Liquidator and counsel to the Company as set out in the Estimated Fee Accruals (defined below);
- c. transfer the remaining funds in the Liquidator's trust account to the bankrupt estate following the assignment of the Company into bankruptcy, after payment of the Estimated Fee Accruals (defined below);
- d. undertake such other administrative activities as may be required to complete its mandate.
(collectively, the "**Remaining Activities**")

29. Upon the Liquidator completing the Remaining Activities set out above it shall file with the Court the Discharge Certificate in order to effect its discharge as Liquidator of the Company.

X. LIQUIDATOR'S FINAL STATEMENTS OF RECEIPTS AND DISBURSEMENTS

30. Attached hereto at **Appendix "F"** is the Liquidator's final statements of receipts and disbursements as at September 12, 2023 (the "**Final SRD**").

XI. ACCOUNTS OF THE LIQUIDATOR, ITS COUNSEL AND COUNSEL TO THE COMPANY

31. Pursuant to paragraph 19 of the Appointment Order, the Liquidator, its independent counsel and counsel to the Company are required to pass their accounts with the Court from time to time. The Liquidator, WeirFoulds and Hong Wilkin PC have maintained detailed records of their time and costs since the Appointment Order.

32. The Liquidator has incurred fees of \$29,171.50 plus HST of \$3,792.30, totaling \$32,963.80 up to August 31, 2023. A copy of the detailed billings of the Liquidator supported by the Affidavit of Tom McElroy sworn September 13, 2023, is attached hereto as **Appendix "G"**.

33. WeirFoulds, the Liquidator's independent legal counsel, has incurred fees of \$10,837.50, out-of-pocket disbursements of \$51.20, plus HST of \$1,415.53, totaling \$12,304.23 up to September 11, 2023. A copy of the detailed billings of WeirFoulds, supported by the Affidavit of Wojtek Jaskiewicz, sworn September 15, 2023, is attached hereto as **Appendix "H"**.

34. Hong Wilkin PC, counsel to the Company, has incurred fees of \$8,568.30, out-of-pocket disbursements of \$282.50, plus HST of \$1,113.88, totaling \$9964.68 up to July 17, 2023. A copy of the detailed billings of Hong Wilkin PC, supported by the Affidavit of Hong Wilkin, sworn September 13, 2023 is attached hereto as **Appendix "I"**.

35. The Liquidator reports that the foregoing professional fees and disbursements are in its view fair and reasonable in the circumstances and supported by detailed invoices as well as affidavits confirming *inter alia* that the abovementioned fees are comparable to those charged by other Licensed Insolvency Trustees and law firms in Toronto for similar services.

36. Set out on the Final SRD are the Liquidator's estimated fee and disbursement accruals required to complete its mandate which accruals include its estimated fees, the estimate fees of WeirFoulds LLP, the estimated fees of Hong Wilkin PC, counsel to the Company, as well as the estimated administrative disbursements of the Liquidator (the "**Estimated Final Accruals**"). The Liquidator is of the view that the Estimated Fee Accruals are reasonable in the circumstances and is requesting that this Honourable Court approve the Estimated Final Accruals.

XII. LIQUIDATOR'S REQUEST FOR APPROVAL

37. The Liquidator respectfully requests an Order of this Honourable Court providing for the relief set out in paragraph 3 of this First Report.

All of which is respectfully submitted this 15th day of September 2023

**ALBERT GELMAN INC., solely in its
capacity as the Court-Appointed Liquidator
of Arehada Mining Limited and not in its
Personal or any other Capacity**

Per: 

Tom McElroy, CPA, CA, CBV, CIRP, LIT